UNITED STATES OF AMERICA

BEFORE THE NATIONAL LABOR RELATIONS BOARD

OAKTREE CAPITAL MANAGEMENT,	Cases	37-CA-6601-1
LLC, and TBR PROPERTY LLC, a SINGLE		37-CA-6642-1
EMPLOYER, d//b/a TURTLE BAY		37-CA-6669-1
RESORTS, and BENCHMARK		37-CA-6691-1
HOSPITALITY, INC.		37-CA-6730-1
,		37-CA-6753-1
		37-CA-6756-1
and		37-CA-6768-1
		37-CA-6816-1
		37-CA-6826-1
UNITE HERE! LOCAL 5		37-CA-6827-1
		37-CA-6835-1
		37-CA-6840-1
		37-CA-6875-1
		37-CA-6877-1
		37-CA-6878-1

RESPONDENTS OAKTREE CAPITAL MANAGEMENT LLC, AND TBR PROPERTIES LLC, A SINGLE EMPLOYER d/b/a TURTLE BAY RESORTS' AND BENCHMARK HOSPITALITY, INC.'S ADDENDUM TO BRIEF IN SUPPORT OF EXCEPTIONS TO THE SUPPLEMENTAL DECISION OF THE ADMINISTRATIVE LAW JUDGE

I. <u>INTRODUCTION</u>

On October 14, 2009, Oaktree Capital Management LLC, TBR Property LLC, and Benchmark Hospitality, Inc. (hereinafter "Respondents") filed with of the National Labor Relations Board (hereinafter "the Board") Respondents' Exceptions to Supplemental Administrative Law Decision and Respondents' Brief in Support of Exceptions to Supplemental Administrative Law Decision. Respondents noted in that brief that Administrative Law Judge ("ALJ") Mary Crafraft relied upon some findings and conclusions that are currently before the Fifth Circuit Court of Appeal. At the time Respondents filed their Exceptions Brief with the Board, Respondents' Fifth Circuit Court Appeal brief had not been filed. It was due on October 21, 2009 and filed October 20, 2009.

¹ In its Exceptions Brief, Respondents also wrote "Respondents' appeal before the Fifth Circuit Court of Appeals concerns certain findings and conclusions of the Board in its underlying decision, including that one of Respondents, Oaktree Capital Management ("Oaktree"), is not a "single employer with TBR Property and a joint employer of the Resort's employees with Benchmark Hospitality," and certain other findings and conclusions. Some of these other findings and conclusions were relied upon by ALJ Cracraft in her supplemental decision. Respondents respectfully request that the Board take judicial notice of the appeal and Respondents' brief to the Fifth Circuit. Respondents will submit to the Board its brief to that court upon the completion and submission of the brief to the Fifth Circuit. Should the Fifth Circuit conclude Oaktree Capital Management is not a joint employer with Benchmark Hospitality and/or otherwise determine Oaktree is not a party, Respondents submit the Board should strike Oaktree from the caption of this supplemental decision and remove it from any subsequent proceedings." (Emphasis added.)

Pursuant to Respondents' Exceptions Brief, Respondents hereby submit and respectfully request that the Board take judicial and administrative notice of the attached Respondents' Fifth Circuit Court of Appeals brief.

Date: November <u>2</u>, 2009

Respectfully Submitted,

GORDON & REES LLP

Daniel T. Berkley Charles O. Zuver, Jr

Attorneys for Respondents

BENCHMARK HOSPITALITY, INC., OAKTREE CAPITAL MANAGEMENT, LLE, AND TBR PROPERTY, LLC d/b/a

TURTLE BAY RESORT

CERTIFICATE OF SERVICE

The undersigned hereby certifies that one copy of RESPONDENTS' ADDENDUM TO BRIEF IN SUPPORT OF EXCEPTIONS TO THE SUPPLEMENTAL DECISION OF THE ADMINISTRATIVE LAW JUDGE has this day been served as described below

by transmitting via e-mail the document listed above to the e-mail addresses set forth below on this date before 5:00 p.m. (PST), pursuant to §102.114 (a, i) of the Rules and Regulations of the NLRB:

1 copy Kristin L. Martin, Esq.

Davis, Cowell & Bowe LLP 595 Market Street, Suite 1400 San Francisco, CA 94105

klm@dcbsf.com

1 copy Jennifer Cynn

In-House Counsel
UNITE HERE! Local 5

1050 Queen Street, Suite 100 Honolulu, Hawaii 96814 jcynn@unitehere5.org PH: 808-941-2141

1 copy Meredith A. Burns

Counsel for the General Counsel National Labor Relations Board

Subregion 37

300 Ala Moana Boulevard, Room 7-245

P.O. Box 50208 Honolulu, HI 96850 Meredith.burns@nlrb.gov

PH: 808-541-2814

1 copy Joseph P. Norelli

Regional Director

National Labor Relations Board REGION 20

901 Market Street, Suite 400 San Francisco, CA 94103-1735

Joseph.Norelli@nlrb.gov

DATED on November 2, 2009 at San Francisco, CA.

Molly Zahner

The undersigned hereby further certifies that **RESPONDENTS' ADDENDUM TO BRIEF IN SUPPORT OF EXCEPTIONS TO THE SUPPLEMENTAL DECISION OF THE ADMINISTRATIVE LAW JUDGE** was duly filed with the Office of the Executive Secretary of the NLRB in Washington D.C. pursuant to § 102.114 by transmitting via electronic filing the document listed above on this date before 5:00 p.m., PST.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on November 2, 2009 at San Francisco, California.

Molly Zahner